

PUBLIC HEARING--August 18, 1965

Appeal #8296 Citizens Assn. of Georgetown, appellant.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and unanimously carried the following Order was entered on August 25, 1965:

ORDERED:

The Zoning Administrator was in error when he ruled on June 10, 1965, that permit #B-130013 to remodel 3248 N St. N.W., lot 826, square 1218 for use as "rooming house" is a justified issuance, and from the ruling of the Director, Department of Licenses and Inspections given on July 8, 1965, that permits issued for repair of above structure will not be cancelled and that a certificate of occupancy for a "rooming and boarding House" will issue when the above building is brought into compliance with applicable regulations.

From the records and the evidence adduced at the hearing, the Board finds the following facts:

(1) The premises involved in this appeal were used for many years as a home for aged persons, under the name "The Baptist Home." Residents were provided both room and meals.

(2) The Home was supported in part by contributions and in part by rent paid by any residents who could afford to pay.

(3) In 1959 The Baptist Home was moved to Ward Circle, N.W. where it was permitted to occupy a building as a philanthropic and eleemosynary institution by order of this Board after public hearing. The subject premises were then vacated by the Home, have been vacant since, and have been sold at least once.

(4) In Appeal #7225 this Board denied without prejudice permission to use the subject premises as a change of a nonconforming use from a home for the aged, nursing home, convalescent home and rooming house to a 28-unit apartment house.

(5) In Appeal #7302 this Board refused to permit use of the subject premises as a change of nonconforming use from a home for aged, nursing home, convalescent home and rooming units to a twenty-four unit apartment with six indoor parking spaces.

(6) In or about June 1965 the present owner applied to the Department of Licenses and Inspections for an occupancy permit as a rooming and boarding house. By letter dated July 8, 1965 the Director of that Department ruled that such an occupancy permit should issue on the ground that the prior use as "The Baptist Home" was a rooming and boarding house. This appeal followed.

OPINION:

While there may be some similarity between the use of the subject property as "The Baptist Home" and use as a typical rooming and boarding house, the Home legally occupied the premises as a philanthropic or eleemosynary institution under zoning regulations in force from time to time, and not as a rooming and boarding house under the same regulations. The action of this Board transferring the Home to its new location under an appeal to establish a philanthropic or eleemosynary institution is clear indication of the character and zoning classification of the institution conducted on N Street, N.W. These factors and consideration establish that the subject premises were not a rooming or boarding house as those terms have been used and defined in the Zoning Regulations, and further establish that the Director of the Dept. of Licenses and Inspections was in error in his ruling of July 8, 1965 with reference to this specific property.

As a general matter of interpretation of the regulations we hold that a home for the aged is not a rooming or boarding house if it meets the definition of a philanthropic or eleemosynary institution as found in the regulations.

The ruling of the Director of the Department of Licenses and Inspections is therefore reversed and declared null and void.